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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.06.2021

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THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN
AND
THE HONOURABLE MRS. JUSTICE T.V. THAMILSELVI

W.P. No. 9038 of 2021

C. Jayapal

..Petitioner

Vs.

1. The State of Tamil Nadu rep.by its
Secretary to Government,
Housing and Urban Development
Dept., Secretariat,
Chennai -9.
2. The Director of Town and Country
Planning,
807, Anna Salai, Chennai -2.
3. The Deputy Director of Town and
Country Planning,
Dindigul, Dindigul District.
4. The Commissioner,
Kodaikanal Municipality,
Kodaikanal,
Dindigul District.

..Respondents

Prayer: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Mandamus directing the 1st respondent to consider the representations of the petitioner dated 22.10.2020 and 27.01.2021 and pass orders with regard to the revised building plan submitted as per the order of the Government in Letter No. 21134/Ud4-1/2019-1 dated 20.03.2020.

For Petitioner :: Mr.R. Singaravelan,
Senior Counsel for
Mr.G. Elanchezhian

For Respondents:: Mrs.R. Anitha,
State Government Counsel for
R1 to R3
Mr.T.S. Mohammed Mohideen
for R4



O R D E R

(Order of the Court was made by Justice N. Kirubakaran)

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The matter was heard through videoconferencing.

2. The writ petition is filed for issue of a Writ of Mandamus directing the 1st respondent to consider the representations of the petitioner dated 22.10.2020 and 27.01.2021 and pass orders with regard to the revised building plan submitted as per the order of the Government in Letter No. 21134/Ud4-1/2019-1 dated 20.03.2020.

3. The case of the petitioner is as follows:

The petitioner is running a Hotel in T.S. No. 2, Ward C, Block 15, Kodaikanal Municipality. According to the petitioner, the land in which the Hotel building is situated is his ancestral property and there is a residential building since 1960. Earlier, the petitioner's family had given 6 cents each on the western corner and eastern boundary of their property respectively, for the formation of public pathway and construction of public convenience. These lands are now classified as pathway and as public convenience vested with the Kodaikanal Municipality. The gifted lands induced reduction in the site extent and created set back violations in the hotel building and also in front of the hotel. In order to make suitable modifications in the constructed hotel building to fulfil the parameters of the Modified Master plan, the petitioner prepared and submitted drawings for consideration and for approval.

4. The petitioner's further case is that there is a residential building in the premises since 1963 and before the Old approved Master Plan 1993 and though he had obtained necessary building permission for the additional construction of residential building within the premises from the 4th respondent Municipality, he had constructed a hotel building instead of residential building. As per the Old Master Plan, the hotel land was classified as Mixed Residential Zone and as he could not obtain necessary reclassification orders from the Government, the Hotel Buildings are in unauthorised condition. Though the hotel is run since 2003 with necessary licence, it was locked and sealed by the 4th respondent Municipality for not obtaining proper planning permission under SEctions 56 & 57 of Tamil Nadu Town and Country Planning Act, 1971. The petitioner made an appeal to the Government to desal the building under Section 80 A of the Act to carry out rectification works and make suitable modifications in the building to satisfy the



Master Plan parameters. On receipt of the appeal petition dated 14.10.2019, the Additional Secretary (Technical), Secretariat, Chennai -9 had issued a temporary lock and seal cancellation order dated 20.03.2020 to the Kodaikanal Municipality and also permitted the petitioner to submit revised building plan to the Municipality within three months period. After carrying out rectification and submitting the revised building plan to the 4th respondent Municipality, the petitioner made a representation to the 1st respondent on 22.10.2020 to cancel the lock and seal order permanently and grant approval based on the revised plan. After receipt of the revised building, plan, a notice dated 08.12.2020 had been issued by the Kodaikanal Municipality to rectify the defect in submitting the revised plan. After rectifying the defects as mentioned in the notice, a revised representation had been submitted by the petitioner on 27.01.2021. Since no orders have been passed till date, the present writ petition has been filed.

5. Heard Mr.R. Singgaravelan, learned Senior counsel for the petitioner; Mrs. R. Anitha, learned State Government Counsel for respondents 1 to 3 and Mr.T.S. Mohammed Mohideen for the 4th respondent.

6. As per the earlier order of this Court dated 09.04.2021, the petitioner's regularization application can be processed only after getting inspection report from the 4th respondent. Eventhough there are deviations, the petitioner is said to have rectified the same. If that is so, the 4th respondent is duty bound to inspect the property and send a report to the 1st respondent. Based on the inspection report, appropriate orders can be passed on the petitioner's application for regularization. No orders can be passed by the 1st respondent without the inspection report.

7. Therefore, the 4th respondent is directed to make an inspection and send a report within four weeks from the date of receipt of a copy of this order, if the report has not been already sent and thereafter, the 1st respondent shall pass appropriate orders, after giving an opportunity to the petitioner in the regularization application, within eight weeks thereafter. The writ petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar(CS-II)

//True copy//

Sub Assistant Registrar

nv



To

1. The State of Tamil Nadu
The Secretary to Government,
Housing and Urban Development
Dept., Secretariat, Chennai -9.
2. The Director of Town and Country
Planning,
807, Anna Salai, Chennai -2.
3. The Deputy Director of Town and
Country Planning,
Dindigul, Dindigul District.
4. The Commissioner,
Kodaikanal Municipality,
Kodaikanal,
Dindigul District.

+1cc to Mr.G. Elanchezhiyan, Advocate SR.No.29898

+1cc to Government Pleader SR.No.30203

W.P.No. 9038 of 2021

KJ(CO)
GMY(23/07/2021)